

# News Release



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## **U.S. Labor Department Seeks Appointment of Independent Fiduciary For Abandoned West Long Branch, N.J. 401(k) Plan**

**NEW YORK** – The U.S. Department of Labor has filed a complaint seeking the appointment of an independent fiduciary to take over the 401(k) plan of Mullaney Associates of West Long Branch, N.J., whose 10 participants have been unable to access their individual accounts.

Participants have not had access to their 401(k) accounts since the plan's sole trustee, Dominick Mullaney, the company owner and president, was convicted for embezzlement of his company's real estate clients' trust accounts in 2001.

"Under the Employee Retirement Income Security Act (ERISA), any person convicted of embezzlement may not serve as a fiduciary to an employee benefit plan," said Francis Clisham, director of the New York regional office of the Employee Benefits Security Administration (EBSA), which investigated the case.

The department filed in federal district court in Newark on Nov. 18, alleging that because Mullaney was barred from engaging in any ERISA fiduciary activities, the plan was not actively managed and was considered abandoned. As a result, participants were not able to get information about their account balances or to access them. It is believed the company is now defunct but the plan, with approximately \$8,967.79 in assets, has not been terminated.

Employers and workers who have questions or concerns regarding their private-sector pension and health plans can contact the EBSA regional office for help at (212) 607-8600 or EBSA's toll free number, **1-866-444-EBSA (3272)**.

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(Chao v. Mullaney Associates 401(k) Plan)  
Civil Action No. 03-CV-5405